

November 15, 2010

West Des Moines City Council Proceedings
Monday, November 15, 2010

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, November 15, 2010 at 5:30 PM. Council members present were: T. Ohmart, J. Sandager, C. Schneider, R. Trimble and K. Trevillyan.

On Item 1. Agenda. It was moved by Sandager, second by Trevillyan to approve the agenda as presented.

Vote 10-456: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum

Jim Charling, 2608 Ashworth Road, representing the YES WDM Christian Church group, announced the 9th annual Great Cookie Walk benefitting the YJI (Youth Justice Initiative), would be held on November 27th, at the WDM Christian Church, from 9:00 a.m. to noon. Mr. Charling recognized the various organizations that would compete in a cookie competition as well as sharing a video which explained the YJI program.

Robert Brownell, Polk County Supervisor, 2213 NW 80th Street, provided a county update on recorder fees, foreclosures, tax valuations, and lease negotiations with Prairie Meadows. Mr. Brownell also recognized the success of the Beacon of Life Thrift Store in Valley Junction which is in part funded by Polk County.

On Item 3. Council/Manager Reports:

Councilmember Sandager – no report.

Councilmember Trevillyan – no report.

Councilmember Trimble stated the Human Services Advisory Board would be meeting later this week, and that there was still a need for holiday basket sponsors, and invited the public to attend the open house scheduled on Thursday, November 18. He also reported the Parks and Recreation Advisory Board would be meeting later in the week and that he had attended the Valley View Steering Committee meeting with discussion resulting in the removal of a proposed dome and artificial turf after concerns were voiced by surrounding neighbors. Councilmember Trimble stated the Valley View Master Plan would most likely come before the City Council sometime in March 2011.

Councilmember Schneider reported the Finance and Administration Subcommittee meeting was

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scheduled for Wednesday and an item for discussion would be the City's health insurance administrator. Councilmember Schneider requested scheduling of a Council workshop to review the ramifications of using a third party versus the self-insured health insurance.

Jody Smith, Interim City Manager, indicated a review of the health insurance could be included in a future Council workshop.

Councilmember Ohmart reported the Public Works Subcommittee had met and the minutes were included in the packet. He explained discussion at the meeting included King's Way drainage issues and meetings were scheduled with the homeowners association.

Mr. Smith reported the City's Administrative Services Department/Finance Department was the recipient of the Distinguished Budget Award for 2009-10 with particular thanks to former Budget Manager Jamie Schug, currently CFO of Des Moines Area Transit. Mr. Smith also announced Chris Hamlett, Accounting Specialist, would be filling the position of Budget Analyst.

On Item 4. Consent Agenda.

Councilmembers requested Items 4(h) be pulled for discussion. It was moved by Ohmart, seconded by Sandager to approve the consent agenda as amended.

- a. Approval of Minutes of November 1, 2010 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Hy-Vee Inc., d/b/a Hy-Vee Gas, 7280 University Avenue - Class BC Permit with Sunday Sales and Carryout Wine Privileges - Renewal
 - 2. Mac Acquisition LLC, d/b/a Romano's Macaroni Grill, 4502 University Avenue - Class LC Liquor License with Sunday Sales Privileges - Renewal
 - 3. Valley West Oil Co., Inc. d/b/a JC's Corner Store - Valley West, 1400 Valley West Drive - BC Permit with Sunday Sales - Renewal
- d. Approval of Grant Applications:
 - 1. STP and STP-TE Funds - Public Works
 - 2. 2011 Homeless Assistance - Human Services
- e. Approval of Change Orders:
 - 1. CO #1 Sewer Repair - 1800 Block of Railroad Avenue
 - 2. CO #1 Westown Parkway Storm Sewer Repair
 - 3. CO #2 Grand Avenue Street Improvements Project - Raccoon River Park Entrance to Fuller Road, Phase 3
- f. Accept Work - Southwest Connector Tree Cutting
- g. Approval and Acceptance of Non Interference Agreement - Clear Wireless, LLC
- i. Approval of Underground Power Installation Agreements - Mid-American Energy
- j. Approval of Proclamations
 - 1. Veteran's Day

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2. Great Cookie Walk Day for YJI

Vote 10-457: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(h) Approval of Private Sign Encroachment and Acceptance of Indemnification/Hold Harmless Agreement - Maffitt Estates

Dick Scieszinski, City Attorney, responded to questions from the City Council regarding the use of the right-of-way easement, prior to ownership, was for advertising signage and was a courtesy with the indemnification agreement protecting the City.

It was moved by Schneider, second by Sandager to approve the sale of the right of way with no time limit.

Vote 10-458: Ohmart, Sandager, Schneider, Trimble.....4 yes
Trevillyan.....1 no

Motion carried.

Mayor Gaer read both proclamations from the consent agenda, thanking Veterans for their service as well as a proclamation recognizing the organizers of the Great Cookie Walk for their continued support of YJI.

On Item 5(a) Village at Jordan Creek, northeast corner of Coachlight Drive and South 64th Street - Amend Specific Plan for Development of 180-unit Apartments and Townhome Community - Slosburg Company

Council members requested the verbiage "Apartments" be replaced with "Condominiums".

It was moved by Sandager second by Ohmart to consider the second reading of the ordinance.

Vote 10-459: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Sandager second by Ohmart to approve the second reading of the ordinance.

Vote 10-460: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager second by Ohmart to waive the third reading and adopt the ordinance in final form.

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Vote 10-461: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) West Glen Town Center - north of Mills Civic Parkway between Interstate 35 and South Prairie View Drive - Amend West Glen Town Center Specific Plan Ordinance to Address Special Events and Modify Signage Regulations - West Glen Town Center, LLC

It was moved by Sandager second by Trimble to consider the second reading of the ordinance.

Vote 10-462: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Sandager second by Trimble to approve the second reading of the ordinance.

Vote 10-463: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 10-464: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(c) Amendment to City Code, Title 6, (Motor Vehicle and Traffic) Chapter 9 (Special Speed Zones) - 81st Street and South 81st Street - City Initiated

It was moved by Trimble second by Trevillyan to consider the second reading of the ordinance.

Vote 10-465: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Trimble second by Trevillyan to approve the second reading of the ordinance.

Vote 10-466: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble second by Trevillyan to waive the third reading and adopt the ordinance in final form.

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Vote 10-467: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Furry Friends Refuge, 1209 and 1211 Grand Avenue - Amend Comprehensive Plan Land Use Designation and Rezone Property from Office to Neighborhood Commercial, initiated by Britt Gagne. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on October 29, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated a resolution was approved by the Plan and Zoning Commission on a vote of 6-0, one member absent, recommending to the City Council, approval of the Comprehensive Plan Amendment and Rezoning Request.

Mayor Gaer asked if there were any additional comments, hearing none, he declared the public hearing closed.

Chris Shires, Development Coordinator, in response to questions from the City Council, stated there were no specific limits as in number and type of animals although the applicant stated it was for cats and dogs, with a limited number of dogs, and that there would be no outdoor kennels, an enclosed outdoor area would be used for exercising the animals. He further explained the Board of Adjustment could establish additional limits, as to types and numbers of animals which could be written into the special use permit approval. He stated staff would work with the applicant to set standards which would be reviewed and adopted in the special use permit. He also responded to questions regarding the requirement for additional right-of-way stating it is standard practice to obtain any deficient right-of-way when upzoning a property and the nexus was the potential increase in traffic. He further explained that the City Council could waive the right-of-way requirement.

Council members thanked Ms. Gagne for locating to the City and choosing this location.

It was moved by Sandager, second by Trevillyan to adopt a resolution for approval of Rezoning Request to change from 1209 and 1211 Grand Avenue from Office (OF) to Neighborhood Commercial (NC), subject to the applicant meeting all City Code requirements and the following:

1. The applicant entering into an agreement with the City to install street lights in the future at such time the overhead electric is placed underground;
2. The applicant providing an irrevocable offer of right-of-way dedication of 27 feet of right-of-way adjacent to Grand Avenue; and
3. The applicant providing an irrevocable offer of right-of-way dedication of five feet of right-of-way adjacent to Prospect Avenue.

Vote 10-468: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes

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Motion carried.

It was moved by Sandager, second by Trevillyan to consider the first reading of the ordinance.

Vote 10-469: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trimble to approve the first reading of the ordinance.

Vote 10-470: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

Items 6(b) through 6(e) Sewer Connection Fees – Mayor Gaer requested Bob Veenstra, Veenstra and Kimm, 3000 Westown Parkway, to provide an overview and answers to frequently asked questions regarding the connection fee districts prior to the opening of the public hearings.

Bob Veenstra, Veenstra and Kimm, 3000 Westown Parkway, provided a background and responded to questions, explaining long range planning for sanitary sewers began approximately ten years ago, in the area north of the Raccoon River and west of I-80 as well as the area south of the Raccoon River and east of I-80 which were large areas and would be built with accordance to need. He explained once sewer areas were designated, the City needed to identify ways to pay for the sewers which historically included using special assessment to each property owner which were due and payable over a period of years and included requirements that the property be within the City limits as well as payment prior to usage. Mr. Veenstra explained another option was the creation of a connection fee district which establishes a boundary area, anticipated cost of the sewer in the area and spreads that cost over the area, with payment by the property owner only when the connection was completed. The sewer connection fee district appeared to be the best method available to the City and property owners, with the City acting as the bank for financing and the property owners responsible only when connecting to the sewer line.

Mr. Veenstra then reviewed the boundaries of the existing districts and stated tonight's action was to update the two existing ordinances to reflect adjustments in boundaries, construction costs and the completion of some sewer lines. He also explained recent annexations identified a need for two new districts to complete the City's long range sanitary sewer plan which included the third district, Raccoon River District located west of I-35, south of the Raccoon River extending a little way into Madison County, and west to projected South Booneville Road, and the fourth district, Middle Creek District, an area just north of Cumming. He explained, unlike most sewers in the City, the Middle Creek District flowed towards Norwalk and Cumming and could be served by a regional sewer thus requiring a separate fee district. He further explained with the establishment of the connection fee districts the City opted to look at large areas with the intention to balance the costs over the areas reducing large disparities and maintaining a consistency in fees. He stated

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the reason a city-wide district could not be used, was because it could be misconstrued as a generic fee versus a fee tied to a specific bundle of improvements in a specific geographical area. He then explained the reasons for differences in the fees between the four districts was due to differences in topography some of which required pumping feed versus gravity feeds.

Mr. Veenstra reviewed answers to a list of questions received from property owners in all four districts, explaining there was no immediate cost to property owners and only when the sewer was constructed, and the property connected would the connection fee be charged. He also clarified that connection to a completed sewer was at the property owners discretion, however if the existing on-site treatment system should fail, the respective county sanitarian department may require connection to the existing sewer. He stated it is generally cost effective to connect than replacement of an on-site treatment system. He also confirmed in the event the on-site treatment system sewer failed, and the sanitary sewer was within 400 feet, with no major impediments to connect, you would be required to connect to the sanitary sewer. In response to questions regarding the fee schedule, he explained the fee was based on current construction costs and reflected a fixed adjustment based on the original fee, the adjustment being based on the consumer price index. He also responded to queries regarding the location of the sewers and explained the maps were a generic plan which followed existing topography, ravines and low lying areas, but there were no specific plans nor was there a schedule for building them in the future which would be governed by need or request. He explained in the last ten years a couple of sewers have been constructed in the Grand Avenue District and one has been built in the South Service District all of which were need based. He also confirmed individual single family residences located on property larger than one acre would only pay a one acre fee, with each additional development on the property requiring sewer to pay an additional connection fee, as the fee was based on sewage flow versus acreage. He confirmed at this time the City had not provided a prorated fee for less than an acre connection, however they would review the option.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Establish Middle Creek Sanitary Sewer (Trunk) Connection Fee District, generally consisting of an area west of the Norwalk City Limits, north of the Cumming City Limits, east of the current West Des Moines City Limits and south of the approximate ridge line between the Raccoon River Basin and the Middle Creek Basin, initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on October 12 and 29, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated all inquiries received at the time the staff report was written, as well as a summary of questions addressed by Veenstra and Kimm were attached to the staff report. A letter received from Knapp Properties on November 13, 2010 was placed on the dais prior to tonight's meeting and referenced all four connection fee districts.

Mayor Gaer asked if there were any additional verbal comments, hearing none he declared the public hearing closed.

It was moved by Ohmart, second by Trevillyan to consider the first reading of the ordinance.

Vote 10-471: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Ohmart, second by Trimble to approve the first reading of the ordinance.

Vote 10-472: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Establish Raccoon River Basin Sanitary Sewer (Trunk) Connection Fee District, generally consisting of an area west of Interstate 35, south of the Raccoon River, north of a line approximately 1/4 mile south of the Madison/Dallas County Line and east of Utica Trail, initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on October 12 and 29, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated all inquiries received at the time the staff report was written, as well as a summary of questions addressed by Veenstra and Kimm were attached to the staff report. A letter received from Knapp Properties on November 13, 2010 was placed on the dais prior to tonight's meeting and referenced all four connection fee districts.

Mayor Gaer asked if there were any verbal comments,

Aimee Staudt, Knapp Properties, 4949 Westown Parkway, Suite 200, explained Knapp Properties had significant land holdings in the proposed fee district and offered the following questions: as the area develops does the one acre rule apply, what the a financial aspect would be if the applicant considered the area undevelopable, as well as how the connection fees were compiled as they appeared very high for this particular district.

Mr. Veenstra responded to the questions regarding new development fees, stating the one acre rule would apply as it does to existing properties.

Duane Wittstock, City Engineer, responded to questions regarding the applicant determining land as undevelopable, stating no fees would be charged, fees would only made upon connection to the sewer.

Mr. Veenstra then responded to Ms. Staudt's question regarding the high connection fee, explaining the engineers reviewed the entire estimated cost, then allocated over developable area, and there was no true up. He explained it was a long term plan and anticipated it would be thirty plus years before all sewers were built. The fee that is paid, is the fee applicable at that period of time, he explained review would be made as time developed with fees adjusted as necessary. He

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clarified the tendency has been for a City to experience a shortfall versus overpayment by the property owners.

Ms. Staudt commented regarding the Raccoon River Basin Sanitary Sewer Fee, it was a very high per acre connection fee, and could be a hindrance for developers in the future.

Mayor Gaer stated an alternative would be for the developer to put in the sewers which has been done in the past.

Mayor Gaer asked if there were any additional verbal comments, hearing none he declared the public hearing closed.

Mayor Gaer encouraged the public to contact the City Manager at 222.3600 or via email, if there were any additional questions prior to the November 29, 2010 City Council meeting.

It was moved by Trevillyan, second by Schneider to consider the first reading of the ordinance.

Vote 10-473: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Schneider to approve the first reading of the ordinance.

Vote 10-474: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Establish South Service Area Sanitary Sewer (Trunk) Connection Fee District, generally consisting of an area east of Interstate 35, south of the Raccoon River, west of Iowa Highway 28 and north of the approximate ridge line between the Raccoon River Basin and the Middle Creek Basin, initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on October 12 and 29, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated all inquiries received at the time the staff report was written, as well as a summary of questions addressed by Veenstra and Kimm were attached to the staff report. A letter received from Knapp Properties on November 13, 2010 was placed on the dais prior to tonight's meeting and referenced all four connection fee districts.

Mayor Gaer asked if there were any verbal comments,

Adam Schnieders, 2730 South 11th Street, thanked Mr. Veenstra and Mr. Wittstock for their responses to questions, and requested consideration of using the Consumer Price Index (CPI)

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versus the estimated five percent increase whichever is cheaper.

Mr. Veenstra explained it was five percent of the original district fee established ten years ago, maintained the same methodology.

Mr. Smith explained changes in the fee structure increase would be discussed at Wednesday's Finance and Administration Subcommittee and results would be presented at the November 29, 2010 City Council meeting.

Don Schafer, 330 Browns Woods Drive, requested clarification of parcels less than one acre.

Mr. Veenstra stated staff would clarify that and provide that information.

Vitus Bering, 1425 Walnut Woods Drive, requested specific language be applied to R-3 districts limiting the cost to one acre connection fee even if the property included three, five or nine acres. He also requested information regarding collector sewer lines.

Mr. Veenstra responded the connection fee cost of one acre was in the City Code framework, with the connection fee districts included as ordinances under that section. He also clarified the use of the term "Subdivision" explaining it was not a formal plat, which would also be clarified in the final approval of the ordinance. He also responded to questions regarding 400' connection requirement, explaining tonight's discussion centered on trunk sewers, and most properties would need to be serviced by another layer of sewers which had not been delineated at the staff level as tonight's discussion primarily focused on financing rather than construction of trunk sewers.

Linda Svec, 1177 Vintage Avenue, Cumming, stated she owned undeveloped property in the area requesting confirmations that if no sewer lines were close a septic system permit would be obtainable.

Mr. Veenstra, confirmed if the property was beyond 400 feet from the connection, the property owner would be able to obtain an off-site sanitation system permit, however if the property were within 400 feet of any sewer where development had occurred she would need to review with the county sanitation her options. He also explained there were three levels of connection, the City, the County and the DNR with all following the same guidelines, if a property were close enough, direction would most likely require connection to the sewer.

Andy Schmitt, 2625 First Street, asked if there were any sewers, trunk or otherwise, planned within the next two years and if any plans or agreements with contingent neighboring cities were part of this action. He also asked how many how many existing properties would fall within the 400 foot requirement.

Mr. Veenstra responded to Mr. Schmitt, indicating there was one pump station project along the west side of First Street, east of the SW Connector which would pump the sewage back to a

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location near the SW Connector and Army Post Road. He explained the station would be located near the Heckman property with sewer running north and south from that location and pumping the sewage south and west. He explained it was more cost effective to install the pump station than allow the sewage to follow gravitational patterns into the Des Moines system.

Mr. Wittstock stated that no one would be forced to connect to the sewer, however historically it was cheaper to connect to the sewer than replace a septic system and was the most user-friendly for the residents. He also responded to questions regarding the expense of construction of the current trunk line cost to service a small number of existing homes, explaining it made more sense to install the sanitary sewer line while the SW Connector was being constructed. He indicated that there were homes where the septic system was disturbed by the construction process for the SW Connector, and this would allow access to the trunk line.

Diane Schmitt, 2625 South First Street, voiced concern regarding the future selling of her home with the burden of being part of a sewer connection fee, with today's real estate.

Deb Spaeth, 2120 South 6th Court, requested information regarding accessibility and potential damage to private road infrastructure.

Mr. Wittstock responded indicating the City would compensate for right of way in the fee district, however in the case of collector sewers, those could be installed via special assessment or with establishment of a fee district. He clarified for private streets, the installation would be the responsibility of the property owners and costs could be distributed similar to how the Commerce area handled a similar installation. He explained damage, if done by the City, would be handled by the City and for private installation, it would be up to the initiator of the private project.

Desha Nielsen, 2515 South First Street, asked if the tree removal had been completed voicing concern about the number of trees missing.

Mr. Veenstra responded that the section of trees Ms. Nielsen referenced was not part of the City project but rather initiated by the property owner and the Waste Reclamation Authority (WRA) as part of an easement agreement. He explained it was an unusual situation.

Don Schafer, 330 Browns Woods Drive, asked what steps would be taken to insure the pump station did not fail and result in sewage backup.

Mr. Veenstra indicated there would be several backup systems in place which included redundant pumps, alarm systems, a backup generator as well as the pump station would be located very deep in the ground to alleviate the possibility of backup into surrounding homes.

Dick Zaun, 2190 South 11th Street, thanked the engineer for addressing most of his questions as well as asking why it couldn't have read one connection fee no matter how large or small a property.

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Mr. Veenstra explained the noticing was related to Iowa Code 384 special assessment process and that the same notice was used in 1999 and 2004, however due to the number of comments, the notice would be reviewed.

Mayor Gaer asked if there were any additional verbal comments, hearing none he declared the public hearing closed.

It was moved by Ohmart, second by Trevillyan to consider the first reading of the ordinance.

Vote 10-475: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Ohmart, second by Trevillyan to approve the first reading of the ordinance.

Vote 10-476: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Establish Grand Avenue West (Southwest Area) Sanitary Sewer (Trunk) Connection Fee District, generally consisting of an area west of Interstate 35 north of the Raccoon River, south of Interstate 80 and east of Ute Avenue (R22), initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on October 12 and 29, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated all inquiries received at the time the staff report was written, as well as a summary of questions addressed by Veenstra and Kimm were attached to the staff report. A letter received from Knapp Properties on November 13, 2010 was placed on the dais prior to tonight's meeting and referenced all four connection fee districts.

Mayor Gaer asked if there were any verbal comments.

Sally Brodbeck, 1025 South Willow Circle, requested information regarding the difference between an existing and a constructed sewer, questioned whether the most updated map had been used, and questioned whether Pheasant Ridge was included in this assessment.

Mr. Veenstra explained a constructed sewer was one that was included within the district funding package whereas an existing sewer was a necessary sewer but not included in the connection fee district. He also stated the provided map was not the most updated and an updated version would be provided at the November 29, 2010 City Council meeting. He confirmed Pheasant Ridge was not part of the fee district, nor were any further sewers planned for that area, as it already had sanitary sewers, but State requirements mandated these properties be included in the public

hearing noticing.

Dennis Lauterbach, 33441 Fox Creek Drive, reviewed the location of the trunk sewer on his property and asked who he would be negotiating with for accessibility and damage issues. He also requested information regarding the need for a collection box once they connect to the sewer.

Mr. Wittstock responded that once the project was authorized, Mr. Lauterbach could contact the City Engineer and the City Attorney. He stated Mr. Lauterbach's property would most likely tap directly into the trunk sewer for service due to its proximity to the trunk line, alleviating the need of a collection box.

Mr. Scieszinski commented upon authorization and design plans begun, the City would get appraisals on the properties affected by the project and confirmed it would include landscape and loss of trees.

Mark Adams, 33061 Fox Creek Drive, read a letter into the record, from the Fox Creek Homeowners Association Board of Directors requesting the Fox Creek area be removed from the sanitary sewer connection fee district, indicating they would prefer to maintain the mature trees and landscapes, and not have any increased sewer fees in the area.

Mayor Gaer asked if there were any additional verbal comments, hearing none he declared the public hearing closed.

Mr. Wittstock responded to questions from the City Council regarding the finality of projected trunk sewer locations in the Fox Creek area, explaining the City Council had not authorized the project, but noted the trunk sewers, which rely on gravity feeds, would need to run in the vicinity of the creeks, and though efforts would be made to save some trees, there would be losses. He indicated the collector sewer locations would be more flexible, however they too would be in the lower areas and feeding into the trunk system. He confirmed once the City Council had authorized the project, there would be citizen input meetings with staff and engineers, as well as a formal public hearing. He then reviewed the areas the trunk sewer would serve beyond the Fox Creek area. He explained, in response to questions from the City Council, the costs incurred for residents noted in the Association letter, included prorated construction of collector sewers, hook up to collector sewers and abandonment of septic systems as well as the City's connection fee.

Mr. Veenstra confirmed both trunk sewers would be required to service the Fox Creek area, conceptually we know the location of the sewers, but until the detailed design is done, we will not be able to provide definitive costs and locations. He explained pump systems could be used, however from an operating system it may be less feasible economically. He pointed out that tonight's action was primarily a focus on amending collection fees in an existing collection fee district, and this is not establishing the plan to implement the sewer system.

The City Council discussed the various issues regarding the potential construction of trunk sewers

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in the Fox Creek area discussing various sewer options and financial impacts to both the City and the property owners.

Mr. Adams thanked the City Council for listening to their concerns.

Mr. Wittstock responded to questions regarding the fee structure calculations, indicating the majority of the properties affected by the districts are undeveloped properties and although there are isolated areas which make up a small percentage, these result in a minimum affect to the collection of connection fees. He stated staff would review the potential costs incurred before the next City Council meeting.

It was moved by Ohmart, second by Schneider to consider the first reading of the ordinance.

Vote 10-477: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

It was moved by Schneider, second by Trimble to approve the first reading of the ordinance.

Vote 10-478: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Westridge Estates Pavement Reconstruction, Phase 3, initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City Clerk indicated the notice was published on November 5, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated none had been received.

Mayor Gaer asked if there were any verbal comments, hearing none he declared the public hearing closed.

It was moved by Trimble, second by Schneider to adopt a resolution for approval of Plans and Specifications, a motion to receive and file Report of Bids, and a resolution Awarding Contract to Concrete Technologies.

Vote 10-479: Sandager, Schneider, Trimble...3 yes
Ohmart, Trevillyan.....2 no
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Valley Junction Sprinkler Infrastructure Program Phase 2, Bid Package #3 (Electrical), initiated by City of West Des Moines. He asked for the date the notice was published and the Deputy City

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Clerk indicated the notice was published on November 5, 2010 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The Deputy City Clerk stated none had been received.

Mayor Gaer asked if there were any verbal comments, hearing none he declared the public hearing closed.

It was moved by Sandager, second by Schneider to adopt a resolution for approval of Plans and Specifications, a motion to receive and file Report of Bids, and a resolution Awarding Contract to Commonwealth Electric Company of the Midwest.

Vote 10-480: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Easton at Bridgewood North Plat 2, 81st Street and Beechtree Lane - Subdivide Property into 20 Lots for Residential Development - Rottlund Homes of Iowa

Council member Trimble voiced concern regarding the many townhomes in West Des Moines.

It was moved by Sandager, second by Trevillyan to adopt a resolution approving the Final Plat, Easton at Bridgewood North Plat 2 to subdivide the property into 20 lots for medium density residential development, subject to complying with all other applicable City Code requirements.

Vote 10-481: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Reed's Crossing Plat 6, west Pommel Place and 63rd Street - Subdivide Property into 11 Lots for Residential Development and 1 Outlot for Storm Water Detention - West Des Moines Developers, LLC

It was moved by Trevillyan, second by Sandager to adopt a resolution approving the Final Plat, Reed's Crossing Plat 6 to establish 11 single family lots and 1 outlot for storm water detention, subject to the applicant meeting all City Code requirements and the following:

1. The Reed's Crossing Plat 6 Homeowners Association forever owning and maintaining Outlot Z, the existing private detention pond.

Vote 10-482: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) South Maple Grove Plat 10, 90th Street between Silver Street and Canyon Street - Subdivide Property into 20 Lots for Residential Development and 1 lot for Public Street - Mid-America Real Estate Co.

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It was moved by Sandager, second by Trevillyan to adopt a resolution approving the Final Plat, South Maple Grove Plat 10, to subdivide the property into 20 lots for single family development and one lot for a public street, subject to provision of a sidewalk bond and the applicant meeting all City Code requirements.

Vote 10-483: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(d) Amendment to City Code, Title 4 (Health and Safety Regulations), Chapter 7 (Noise Control - Process and Procedures) - City Initiated

Jason Wittgraf, Assistant City Attorney, reviewed the requested changes to the ordinance, recommended unanimously by the Sound Committee, explaining the sound meter manufacturer recommended at least 10 dB difference between the ambient sound level (all sources of sound) and the background sound level (ambient sound level less the noise disturbance) to determine the noise source. He also explained difficulties had been experienced in stopping concert venues to measure possible sound violations. He stated the recommendation included a clause to address waiting no more than thirty minutes, after which the individual waives the 10dB difference with the result of the ten minute ambient sound level measured and the noise will be determined as a sound disturbance. This eliminates the need to cite an individual solely for not stopping the noise disturbance, whether it exceeds it or not which will allow for better enforcement on a municipal infraction level. He confirmed the Val Air general manager and counsel had attended the committee meeting.

Council members questioned the thoroughness of the sound consultant and whether there was a possibility of establishing an average background sound, instead of stopping the music as well as discussion regarding additional changes to the ordinance.

Mr. Scieszinski, noted with regards to the establishment of an ambient level average, it would require a sound sample established over a long period of time in order for it to be placed in court evidence as we would be responsible for the burden of proof.

Staff was directed to research whether establishment of an ambient sound average would be enforceable as well as reviewing with KJWW, the sound consultant, as to why the 10dB variance was not included in their initial recommendations.

It was moved by Trevillyan, second by Schneider to consider the first reading of the ordinance.

Vote 10-484: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Deputy City Clerk read the preamble to the ordinance.

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It was moved by Trevillyan, second by Schneider to approve the first reading of the ordinance.

Vote 10-485: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) Taco John's of Iowa, 350 Grand Avenue - Amend Taco John's PUD (Planned Unit Development) Signage Regulations - Referred to Plan and Zoning Commission

On Item 8(b) Amend City Code by replacing all references to "Community Development Department", or any variation of the same, with "Development Services Department" and replacing all references to "Development Services Director and Community Development Director", or any variation of the same, with "Development, Planning and Inspection Manager" - City Initiated - Referred to Plan and Zoning Commission

On Item 9 - Other Matters

Council member Ohmart requested an item be placed on the Public Works Subcommittee to find resolution for a proposed DART bus shelter across the street from 300 4th Street, to alleviate bus patrons waiting inside the business located at that address and to include the property owner to the subcommittee meeting.

Mayor Gaer requested staff review the speed limit on E.P. True north of Jordan Creek Town Center to coincide with streets surrounding the mall. He also requested staff address a right turn lane into a vacant lot along Mills Civic Parkway, just west of West Glen Town Center, to prevent confusion and potential vehicular damage.

The regular meeting was adjourned at 8:32 p.m.

It was moved by Trimble, second by Trevillyan to go into Executive Session per Chapter 21 of the Iowa Code, to discuss narrowing of Applications for City Manager Interviews and Contract Negotiations.

Vote 10-486: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

Entered Executive Session at 7:58 p.m. with the following persons present in the Teamwork Room of City Hall: Mayor Gaer, Council members Ohmart, Sandager, Schneider, Trevillyan and Trimble; Interim City Manager/City Clerk, Human Resource Director and consultants.

It was moved by Trevillyan, second by Sandager to adjourn from Executive Session.

Vote 10-487: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

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The meeting was adjourned at 9:00 p.m.

It was moved by Trevillyan, second by Trimble to go into Executive Session per Chapter 21 of the Iowa Code, to discuss narrowing of Applications for City Manager Interviews and Contract Negotiations.

Vote 10-488: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

Entered Executive Session at 8:46 p.m. with the following persons present in the Teamwork Room of City Hall: Mayor Gaer, Council members Ohmart, Sandager, Schneider, Trevillyan and Trimble; Interim City Manager/City Clerk, City Attorney, Human Resource Director and Bob Slavin and Paul Wenbert from Slavin Management Consultants.

The City Attorney left the meeting at 8:59 p.m.

It was moved by Schneider, second by Trevillyan to adjourn from Executive Session.

Vote 10-489: Ohmart, Sandager, Schneider, Trevillyan, Trimble...5 yes
Motion carried.

The Executive Session was adjourned at 10:07 p.m.

Respectfully submitted,



Fern E. Stewart, CMC
Deputy City Clerk

ATTEST:



Steven K. Gaer, Mayor